

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

David Dwight Smith,)	
)	
Plaintiff,)	Civil Action No. 6:05-2497-GRA-WMC
)	
vs.)	<u>ORDER</u>
)	
Larry Powers, Warden of Spartanburg)	
County Detention Center, et al.,)	
)	
Defendants.)	
_____)	

This matter is before the court on motion of the plaintiff filed September 28, 2005, for court-appointed counsel and discovery.

Motion for Appointment of Counsel

The Congress does not appropriate funds to pay attorneys who represent litigants in civil rights cases. 53 Comp. Gen. 638 (1974). Although this economic fact is not conclusively determinative of the issue, it is a practical consideration which cannot be ignored. Moreover, it has been authoritatively stated in this context that a person who has a legitimate civil rights claim for damages "will likely find private counsel available on a contingent fee basis." *Williams v. Leeke*, 584 F.2d 1336, 1339 (4th Cir. 1978), *cert. denied*, 442 U.S. 911 (1979). In most civil rights cases, the issues are not complex, and whenever such a case is brought by a *pro se* litigant, this court outlines proper procedure so the *pro se* litigant will not be deprived of a fair opportunity to present his or her case. *Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 1975). In some instances, of course, a failure to make a discretionary appointment of counsel may represent an abuse of discretion, but this

is not the type of case which presents factors that clearly reflect a need for the plaintiff to have counsel appointed.

Motion for Discovery

The plaintiff's motion is more properly in the form of a discovery request. The plaintiff is directed to comply with the Federal Rules of Civil Procedure as to his discovery request.

Now, therefore,

IT IS ORDERED that the plaintiff's motion for appointment of counsel is denied.

IT IS FURTHER ORDERED that the plaintiff's motion for discovery is denied.

IT IS SO ORDERED.



WILLIAM M. CATOE
UNITED STATES MAGISTRATE JUDGE

October 4, 2005

Greenville, South Carolina